

HOUSE BILL No. 4810

May 13, 1991, Introduced by Reps. Johnson, Perry Bullard, Byrum, Dolan, Dalman, Gilmer, Webb, Oxender, Willis Bullard, Sikkema, Bender, Hertel, McBryde, Leland, Gire, Olshove, Weeks, Joe Young, Sr., Yokich, Dobronski, Wallace, DeMars, Profit, Berman, Kilpatrick, Emerson, Hollister, Jondahl and Dobb and referred to the Committee on Judiciary.

A bill to amend section 13a of chapter XIIIA of Act No. 288 of the Public Acts of 1939, entitled as amended

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

as added by Act No. 224 of the Public Acts of 1988, being section 712A.13a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 13a of chapter XIIIA of Act No. 288 of
2 the Public Acts of 1939, as added by Act No. 224 of the Public
3 Acts of 1988, being section 712A.13a of the Michigan Compiled
4 Laws, is amended to read as follows:

5 CHAPTER XIIIA

6 Sec. 13a. (1) As used in this section and sections 18f, 19,
7 19a, 19b, and 19c of this chapter:

8 (a) "Agency" means a public or private organization, insti-
9 tution, or facility responsible pursuant to court order or con-
10 tractual arrangement for the care and supervision of a child.

11 (b) "Foster care" means care provided to a child in a foster
12 family home, foster family group home, or child caring institu-
13 tion licensed or approved under Act No. 116 of the Public Acts of
14 1973, being sections 722.111 to 722.128 of the Michigan Compiled
15 Laws, or care provided to a child in a relative's home pursuant
16 to an order by the juvenile division of the probate court.

17 (2) If a child is alleged to come within the provisions of
18 section 2(b) of this chapter, the court may authorize a petition
19 to be filed at the conclusion of the preliminary hearing or
20 inquiry. The petition may be authorized upon a showing of proba-
21 ble cause that 1 or more of the allegations in the petition are
22 true and fall within the provisions of section 2(b) of this
23 chapter.

24 (3) If a petition under subsection (2) is authorized, the
25 court may release the child in the custody of either of the
26 child's parents, guardian, or custodian under such reasonable

1 terms and conditions as are necessary for either the physical
2 health or mental well-being of the child.

3 (4) IF A PETITION UNDER SUBSECTION (2) IS AUTHORIZED AND THE
4 COURT AFTER HEARING FINDS PROBABLE CAUSE TO BELIEVE THAT A PARENT
5 OR OTHER PERSON COMMITTED ABUSE OF THE CHILD, THE COURT MAY ORDER
6 THAT PARENT OR OTHER PERSON TO LEAVE THE HOME AND NOT SUBSE-
7 QUENTLY RETURN TO IT, EXCEPT AS THE COURT ORDERS, AND RELEASE THE
8 CHILD TO THE OTHER PARENT, A GUARDIAN, OR A CUSTODIAN. THE COURT
9 SHALL NOT ENTER AN ORDER UNDER THIS SUBSECTION UNLESS THE COURT
10 DETERMINES THAT THE PRESENCE IN THE HOME OF THE PERSON WHO IS
11 ALLEGED TO HAVE COMMITTED THE ABUSE PRESENTS A SUBSTANTIAL RISK
12 OF HARM TO THE CHILD'S LIFE, PHYSICAL HEALTH, OR MENTAL
13 WELL-BEING, THAT NO PROVISION OF SERVICES OR OTHER ARRANGEMENT
14 EXCEPT REMOVAL OF THE PERSON WHO IS ALLEGED TO HAVE COMMITTED THE
15 ABUSE CAN ADEQUATELY SAFEGUARD THE CHILD FROM THE RISK, THAT THE
16 CONDITIONS OF CUSTODY WITH OTHER PARENT, A GUARDIAN, OR A CUSTO-
17 DIAN ARE ADEQUATE TO SAFEGUARD THE CHILD FROM THE RISK, AND THAT
18 IT IS IN THE BEST INTEREST OF THE CHILD FOR THE CHILD TO REMAIN
19 IN THE HOME. AN ORDER ENTERED UNDER THIS SUBSECTION MAY FURTHER
20 CONTAIN 1 OR MORE OF THE FOLLOWING TERMS OR CONDITIONS:

21 (A) THE COURT MAY REQUIRE THE ALLEGED ABUSIVE PARENT TO PAY
22 APPROPRIATE SUPPORT DURING THE DURATION OF THE ORDER.

23 (B) THE COURT MAY INCLUDE ANY REASONABLE TERM OR CONDITION
24 NECESSARY FOR THE CHILD'S PHYSICAL OR MENTAL WELL-BEING OR NECES-
25 SARY TO PROTECT THE CHILD.

26 (5) ~~(4)~~ If a petition under subsection (2) is authorized,
27 the court may order placement of the child with someone other

1 than a parent if the court after hearing determines that both of
2 the following conditions exist:

3 (a) Custody of the child with a parent, guardian, or custo-
4 dian presents a substantial risk of harm to the child's life,
5 physical health, or mental well-being and no provision of service
6 or other arrangement except removal of the child is reasonably
7 available to adequately safeguard the child from such risk.

8 (b) Conditions of custody of the child away from a parent,
9 guardian, or custodian are adequate to safeguard the child's
10 health and welfare.

11 (6) ~~(5)~~ If the court orders placement of the child outside
12 the child's home, the court shall inform the parties of the
13 following:

14 (a) That the agency has the responsibility to prepare an
15 initial services plan within 30 days of the child's placement.

16 (b) The general elements of an initial services plan as
17 required by the rules promulgated pursuant to Act No. 116 of the
18 Public Acts of 1973.

19 (c) That without a court order participation in an initial
20 services plan is voluntary.

21 (7) ~~(6)~~ In determining placement of a child pending trial,
22 the court shall order the child placed in the most family-like
23 setting available consistent with the needs of the child.

24 (8) ~~(7)~~ Unless visitation, even if supervised, would be
25 harmful to the child, the child's parent shall be permitted to
26 visit frequently with the child.

1 (9) ~~(8)~~ Upon the motion of any party, the court shall
2 review custody and placement orders and initial services plans
3 pending trial and may modify those orders and plans as the court
4 considers pursuant to this section are in the best interests of
5 the child.

6 (10) AS USED IN SUBSECTION (4), "ABUSE" MEANS ANY OF THE
7 FOLLOWING:

8 (A) HARM OR THREATENED HARM BY A PERSON TO A CHILD'S HEALTH
9 OR WELFARE THAT OCCURS THROUGH NONACCIDENTAL PHYSICAL OR MENTAL
10 INJURY.

11 (B) ENGAGING IN SEXUAL CONTACT OR PENETRATION WITH A CHILD
12 AS DEFINED IN SECTION 520A OF THE MICHIGAN PENAL CODE, ACT
13 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.520A OF THE
14 MICHIGAN COMPILED LAWS.

15 (C) SEXUAL EXPLOITATION OF A CHILD, WHICH INCLUDES ALLOWING,
16 PERMITTING, OR ENCOURAGING A CHILD TO ENGAGE IN PROSTITUTION, OR
17 ALLOWING, PERMITTING, ENCOURAGING, OR ENGAGING IN THE PHOTOGRAPH-
18 ING, FILMING, OR DEPICTING OF A CHILD ENGAGED IN A LISTED SEXUAL
19 ACT AS DEFINED IN SECTION 145C OF ACT NO. 328 OF THE PUBLIC ACTS
20 OF 1931, BEING SECTION 750.145C OF THE MICHIGAN COMPILED LAWS.

21 (D) MALTREATMENT OF A CHILD.